

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Add Section 125
Title 14, California Code of Regulations
Re: Commercial Take of Rock Crab

- I. Date of Initial Statement of Reasons: July 30, 2003
- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: October 3, 2003
Location: Redding, California
 - (b) Discussion Hearing: Date: November 7, 2003
Location: San Diego, California
 - (c) Adoption Hearing: Date: December 5, 2003
Location: Sacramento, California
- III. Description of Regulatory Action:
 - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

State Law (Section 8282 (c), Fish and Game Code) delegates to the Fish and Game Commission (Commission) the authority to regulate the commercial harvest of rock crab.

The commercial rock crab fishery is one of the last remaining open access fisheries in California. At present, any individual who purchases a \$35 general trap permit and a commercial fishing license may participate in the fishery. Representatives of the southern California rock crab trap fishing industry have recommended to the Commission that a limited entry (i.e. restricted access) permit fishery be created in order to protect the rock crab fishery from the impacts of its status as one of the last open access fisheries on the west coast.

The proposed regulatory action would create a rock crab trap permit. It would also establish eligibility requirements for obtaining a rock crab trap permit, and renewing it. Establishment of a control date is also proposed to provide for limits on future participation if necessary.

Rock crabs are fished along the entire California coast. The catch is made up of three species: the yellow rock crab (*Cancer anthonyi*), the brown rock crab (*C. antennarius*), and the red rock crab (*C. productus*). What percentage of the catch each species comprises is unknown. The commercial fishery is most active in southern California from Morro Bay south to the Mexican border where 85 to 90 percent of the landings occur. The northern area from Monterey to the Oregon border, where the Dungeness crab trap fishery predominates, is of lesser importance.

The Department began to document landing data for this fishery in 1950 when a separate reporting category for commercial rock crab landings was established. Since then, landings have risen from 20,000 pounds per year to over 2 million pounds in 1986. Rock crab landings for 2002 were 1.2 million pounds and have averaged 1.1 million pounds per year since 1993. South of Monterey, commercial crabbing has expanded from areas around major ports such as San Diego, San Pedro, Santa Barbara, and Morro Bay to more distant mainland areas and the Channel Islands. From Monterey to the Oregon border, rock crab trapping occurs primarily in 50 fathoms or less with crabbing in the Eureka area occurring almost exclusively in Humboldt Bay.

Rock Crab Trap Permit

The proposed regulations are needed to ensure a sustainable rock crab trap fishery in California. The Department and members of the southern California rock crab trap fishing industry are concerned that further expansion of the rock crab trap fishery could result in overcapitalization of the fishery. Whenever multiple species are harvested in a single fishery in unknown quantities there is danger of serial depletion. That is, one species may be harvested at levels that are not sustainable, but the annual harvest remains stable or even increases, masking the decline of the individual species.

Rock crab landings in the Santa Barbara port area have been increasing yearly since 1999 and reached a ten-year high of 764,000 pounds in 2002. Both the Los Angeles and San Diego port areas had above five-year average landings in 2002 with 94,000 and 165,000 pounds landed in each port, respectively. According to Department commercial landing data, close to 136 individuals landed rock crab in 2002 from Morro Bay south. Seventy-one of these fishermen landed 1,000 pounds or more of rock crab. There is growing concern that the fishery has reached its capacity in southern port areas. With reduced quotas and seasons and the further development of restrictive access in the groundfish fisheries, the proposed regulations are needed to prevent overcapitalization of the remaining open access fishery.

Initial Permit Issuance

The Department is proposing that a rock crab trap permit may be issued to any licensed commercial fisherman who has a general trap permit and who has landed a minimum of [0 - 2,000 pounds] of rock crab utilizing trap gear [during any one calendar year from 1998 through 2002] or [between January 1, 1998, and December 31, 2002] as documented by Department landing receipts submitted in an individual's name and commercial fishing license identification number with trap gear identified.

Analysis of commercial rock crab trap landings data was undertaken by the Department to determine the total number of individuals actively participating in this fishery and to identify their level of effort. The goal of the Department is not to reduce the number of individuals actively participating in the fishery in recent years, but to keep effort at or near that number. Both Department and fishery representatives agree that the period 1998-2002 was a reasonable definition of "recent" effort. For that reason those years were subsequently used to narrow the options for the proposed minimum landing requirements.

The range of [0-2,000] pounds over the 5-year window period [or in a single calendar year] was chosen to provide the Commission alternatives from which a selection could be made on the composition of the future fleet once the entire industry has been notified and provided input. This range would allow the Commission to choose either a specific performance standard in a single year to measure participation, or alternatively, determine a level of participation over an extended recent time period.

The tables below provide a summary of the range of options and anticipated qualifiers under various performance scenarios based on evaluation of the Department's commercial rock crab landings data. However, it is important to recognize that these numbers reflect the maximum number of individuals who may wish to purchase a permit. Other factors, such as attrition, retirement, or the permit fee may deter some of these anticipated qualifiers from actually purchasing a permit.

Rock Crab Commercial Catches Over the 1998-2002 Window Period

Five-Year Total Catch	Number of Individuals
2,000 pounds or more	146
1,000 pounds or more	189
750 pounds or more	200
500 pounds or more	241
250 pounds or more	300
200 pounds or more	314

100 pounds or more	368
50 pounds or more	414
1 pound or more	536

Rock Crab Commercial Catches in a Single Year During 1998-2002 Window Period

Single-Year Catch	Number of Individuals
2,000 pounds or more	140
1,000 pounds or more	170
750 pounds or more	181
500 pounds or more	223
250 pounds or more	286
200 pounds or more	303
100 pounds or more	359
50 pounds or more	410
1 pound or more	536

There is no log book requirement for this fishery, and no survey work has been done to determine the biomass of the three rock crab species harvested in the fishery. Therefore, it is not possible to determine, from a biological standpoint, what an ideal fleet size might be. A first step in gathering data on the fishery is to require a specific permit to target rock crabs, and to not allow further capitalization until baseline data is available. The permit fee will help to fund the collection of this information.

The Department is proposing an annual fee for the rock crab trap permit of [\$50 to \$250]. Funding will be required in order to implement the proposed permit system, track fishery landings, enforce the new regulations, staff appeal hearings, and review the program to determine if any modifications are needed. Based on estimates provided by the Department's Marine Region, License and Revenue and Enforcement Branches, the proposed permit program is anticipated to cost approximately \$50,000-80,000 for permit administration; the cost-equivalent of one to 1.5 administrative staff members, \$30,000 - \$60,000 for enforcement of the permit requirement (the cost-equivalent of one-half to one full-time enforcement agent) and \$30,000 - \$200,000 (the cost-equivalent of one-half to three full-time biological staff) for biological and managerial needs including monitoring landings, policy review and oversight, and initial development of data sources and analysis which may be used for future assessment and restricted access programs. Therefore, minimum annual costs of the program may be estimated at \$110,000.

Rock crab landing taxes only generate approximately \$2,100 a year; which is not adequate to fund the permit program. Assuming the Commission selects a

landing requirement of at least one pound over the window period (536 participants) to 2,000 pounds in a single year (140 participants), a permit fee at the low range proposed (\$50) would generate between \$7,000 and \$26,800 annually. At the highest cost within the range proposed (\$250), revenue generated would be between \$35,000 and \$134,000 annually, depending on the initial issuance criteria selected.

A control date announces to all current and potential fishery participants that at a future date a restricted access program will be considered for this fishery. It provides an equitable tool to gauge participation when a program is implemented and a qualification period is needed. A wide range of control date options [January 1, 2000 – March 31, 2003] was provided by the Department to the Commission to allow for industry input. Selecting a date of March 31, 2003 would give consideration to any fisherman who participated in the prior fishing season or earlier. Selecting a date of January 1, 2000 would acknowledge participation only by those in the fishery at or before the time that fishery representatives went to the Commission and formally requested that no new participants be allowed in the fishery. At that time, the Commission did not have authority over the rock crab fishery, and the fishermen were told a legislative action would be required for that transfer of authority. FGC Section 8282(c) went in effect on January 1, 2003 giving the Commission regulatory authority over the rock crab resource.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 1050 and 8282, Fish and Game Code.

Reference: Sections 1050, 8275, 8282, 8284, 9000, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9011, and 9012, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None

- (d) Identification of Reports or Documents Supporting Regulation Change:

None were identified.

- (e) Public Discussions of Proposed Regulations Prior to Notice publication:

The 45-day comment period provides adequate time for review of the proposed regulations.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

A restrictive access program with transferable permits was proposed by a small group of rock crab trap fishermen from southern California and considered by the Department. They proposed a moratorium on new rock crab permits and a 1,000 pound landing requirement during the five years prior to 2003 in order to qualify for a permit. According to Department commercial rock crab trap landing data, approximately 190 individuals would qualify for a statewide rock crab trap permit under this alternative, with the majority of these individuals making landings in the Morro Bay, Santa Barbara, Los Angeles, and San Diego port areas. The Department does not want to develop a restricted access fishery without statewide industry participation and a full analysis of capacity goal and existing data.

(b) No Change Alternative:

If a permit system with qualifying criteria is not adopted for the rock crab trap fishery, fishing effort will continue to increase, and harvest levels may not be sustainable. At a minimum, the economic viability of the fishery for those with long-term vested interests will decrease due to an increased number of participants.

Not creating a specific permit for this fishery means the Department must continue to rely on landings to determine the number of actual participants. Landings data alone do not provide accurate information about how many fisherman may be interested in pursuing the fishery full-time or part-time, or which landings of rock crab are incidental landings made while fishing for another target species. A \$35.00 general trap permit is the current requirement to trap rock crab. Although it identifies the gear type the fisherman intends to use, it does not identify the target species. The existing trap permit fee and landing tax do not provide adequate reimbursement for the expenditures required to adequately protect and maintain a marine resource and associated fishery.

(c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Each permittee, buyer, and processor is considered a small business. The proposed permit program would cause some fishermen who have participated in the fishery in the past on a limited and sporadic level to lose some potential income if the initial issuance criteria selected requires a level of prior participation that has not been met. As the ex-vessel value of rock crab is \$1.30 to \$2.00 per pound, with prior catch history of 1,000 pounds over the five year window period, a maximum future loss might be estimated at between \$1,300 and \$2,000 per person over a five-year time period if that individual was to repeat the prior performance level and the Commission were to select a minimum catch history of 1,000 pounds for initial permit issuance. It is thought that since these individuals do not derive a significant portion of their income from this fishery, the economic impact would not be significant to those that may not qualify for initial permit issuance.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

(c) Cost Impacts on a Representative Private Person or Business:

Each individual who seeks to purchase a rock crab trap permit and meets the selected initial issuance criteria may purchase a permit at a cost of [\$50 - \$250]. The permit may be renewed annually at the selected fee level. This funding is needed to offset program costs, including funds

needed to implement the initial permit program, track landings, enforce the new regulations, staff appeal hearings, review the program and develop any additional modifications to the program or develop other management strategies that may be needed once the program is implemented. See Section III (a) for additional information.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Informative Digest/Policy Statement Overview

A person must have a commercial fishing license, a general trap permit, and use a vessel that is commercially registered to participate in the commercial rock crab trap fishery. The proposed regulatory action would create a rock crab trap permit requirement beginning April 1, 2004. It would also establish initial issuance criteria based on prior catch history, and place a moratorium on the issuance of new permits after October 31, 2004. A control date is also proposed to provide for other limits on future participation if necessary. A fee is proposed for the annual permit. Only one individual aboard a vessel trapping rock crab would be required to have the rock crab trap permit in addition to the individual's general trap permit. Other licensed fishermen assisting in the take of rock crab would still need a commercial fishing license and a general trap permit. The permit application process and appeal and renewal processes are also specified in the proposed regulations.

The Department is proposing that a rock crab trap permit may be issued to any licensed commercial fisherman who has a general trap permit, and who has landed a minimum number of pounds of rock crab during a specified time period as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number. A range of minimum catch levels and time periods are provided from which the Commission may select. A minimum of 0 to 2,000 pounds must have been landed in any single calendar year between 1998 and 2002, or the participant must have cumulatively landed a minimum of 0 to 2,000 pounds in the 1998 through 2002 time period.

The range of 0-2000 pounds over the 5-year window period or in a single calendar year was chosen to provide the Commission alternatives from which a selection could be made on the composition of the future fleet once the entire industry has been notified and provided input. This range would allow the Commission to choose either a specific performance standard in a single year to measure participation, or alternatively, determine a level of participation over an extended recent time period. The tables below provide a summary of the range of options and anticipated qualifiers under various performance scenarios based on evaluation of the Department's commercial rock crab landings data.

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Applicants are required to submit a commercial rock crab trap permit application form DFG 1324(9/03) along with the required fee. The Department is proposing an annual fee for the rock crab trap permit of \$50 to \$250. Funding will be required in order to implement the proposed permit system, track fishery landings, enforce the new regulations, staff appeal hearings, and review the program to determine if any modifications are needed. Based on estimates provided by the Department's Marine Region, License and Revenue and Enforcement Branches, minimum annual costs of the program may be estimated at \$110,000.

Control date options from January 1, 2000 through March 31, 2003 were provided by the Department to the Commission to allow for industry input. Selecting a date of March 31, 2003 would give consideration to any fisherman who participated in the prior fishing season or earlier. Selecting a date of January 1, 2000 would acknowledge participation only by those in the fishery at or before the time that fishery representatives went to the Commission and formally requested that no new participants be allowed in the fishery.